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IN THE SUPREME COURT OF THE UNITED STATES, CLERK

October Term, 1978

No. **78-1678**

GEORGE A. BOMHER, Petitioner Pro Se

versus

UNITED STATES OF AMERICA, Respondent

PETITION FOR WRIT OF CERTIORARI
TO
THE UNITED STATES COURT OF APPEALS
FOR
THE THIRD CIRCUIT

May, 1979.

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BOMHER v. U.S.; Petition for Writ of Certiorari

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To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

George A. Bomher, Petitioner herein, prays that this Court will issue a Writ of Certiorari to the U. S. Court of Appeals for the Third Circuit to review their Judgment entered in this case on January 23, 1979.

OPINIONS/JUDGMENTS BELOW

The Opinion/Judgment of the U. S. Court of Appeals for the Third Circuit (USCA3) sought to be reviewed is, to the best of Petitioner's knowledge, unreported and is printed in Appendix A1, infra. The Findings of Fact, Conclusions of Law and Order of the U. S. District Court for the Eastern District of Pennsylvania (USDC ED PA) denying Petitioner's Motions for Judgment of Acquittal and for New Trial is printed in Appendix A2, infra. Timely Petition for Reconsideration of Post-trial Motions was denied. The Order denying Petition for Reconsideration is printed in Appendix A3, infra. The Judgment of USDC ED PA is printed in Appendix A4, infra.

JURISDICTION

The Opinion/Judgment of USCA3 (Appendix A1, *infra*) was entered on January 23, 1979. A timely Petition for Rehearing was denied on March 7, 1979. The Order denying Petition for Rehearing is printed in Appendix B1, *infra*. Stay of Mandate was granted by USCA3 on March 27, 1979. The Order granting Stay of Mandate is printed in Appendix B2, *infra*.

On April 4, 1979, Mr. Justice Brennan entered an Order extending the time for the filing of this Petition to and including May 6, 1979. Mr. Justice Brennan's Order is printed in Appendix B3, *infra*.

The jurisdiction of this Court is invoked pursuant to 28 USC Sec. 1254(1).

QUESTIONS PRESENTED

1. Whether it is a denial of procedural due process of law for a defendant in a criminal case to be denied timely-requested particulars essential to preparing a proper defense and without which defendant was found "guilty" having been unable to present any defense at all.

2. Whether it is a denial of procedural due process of law for a defendant in a criminal case to be caused to suffer trial and "conviction" based entirely on "evidence" founded upon a presumption which defendant was precluded from rebutting by denial of timely-requested particulars.

3. Whether it is a denial of procedural due process of law for a defendant to be caused to suffer "conviction" in a criminal case in which the government was not held to its burden of proof, i.e., its burden of proving beyond reasonable doubt each essential element of the offense charged in the Indictment and each essential sub-element as would necessarily be included within each essential element.

4. Whether it is a denial of procedural due process of law for a defendant to be caused to suffer "conviction" in a criminal case in which the government failed to establish the "corpus delicti."

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Following are the constitutional and statutory provisions involved herein, the applicable text of each being printed in Appendix C, *infra*:

U. S. Constitution, Article I, Section 8.
U. S. Constitution, Article VI.
U. S. Constitution, Amendment Five.
U. S. Constitution, Amendment Six.
U. S. Constitution, Amendment Nine.
Title 26, United States Code, Section 6012.
Title 26, United States Code, Section 7203.
Statute I, Chapter XVI.
Public Law 89-81.

STATEMENT OF THE CASE

Petitioner moved from Chula Vista, California, to Glenside, Pennsylvania, in September of 1976.

On December 21, 1976, he was indicted by the federal Grand Jury at Los Angeles, California, charging four counts of willful failure to file income tax returns for 1970, 1971, 1972, and 1973 in violation of 26 USC Section 7203.

The jurisdiction of the court of first instance, the U. S. District Court for the Central District of California (USDC CD CA), was most probably assumed pursuant to 18 USC Section 3231 although Petitioner is unable to find in his records of this case any specific invocation of jurisdiction by the government or the Court.

Petitioner was arraigned in USDC CD CA where his Motion to Transfer Case from District was granted whereupon this case was transferred to the U. S. District Court for the Eastern District of Pennsylvania (USDC ED PA).

The four-count Indictment charged that Petitioner in each of four years "had and received a gross income of" a specified number of "\$'s" and "that by reason of such income he was required by law . . . to make an income tax return . . ."

To determine specifically "what" those "\$'s" were which the government had charged him with having "had and received" in sufficient number so as to be "required by law to make an income tax return," Petitioner timely filed a pre-trial Motion for Bill of Particulars in which, among other things, he asked for the precise definition of the symbol, the dollar sign, as used by the government in the Indictment and where such precise definition of that symbol (and the word it represents) is to be found in the United States Code. Petitioner stated that the definition of the "\$" was needed to prepare to defend; that it was material to such preparation; and that he did not know "what" it is he was alleged to have "had and received." The government opposed granting Petitioner the definition of the "\$" and the trial Court, sustaining the government's position, denied the motion.

It is worthy of this Court's notice that, from this point forward, the outcome of the proceedings in the trial Court and in the Court of Appeals was based upon the presumption that:

1. A valid Congressional definition of the "\$" actually existed for the years in question; and

2. The Congressionally-defined "\$" was actually made into a material object capable of being "had and received;" and

3. Such material objects were actually circulated throughout the United States in large enough quantity during the years in question so that everyone could "have and receive" those "\$'s" they had earned and to which they were entitled.

It is also worthy of this Court's notice that, because he was denied the precise definition of the "\$" as used by the government in the Indict-

ment, Petitioner was precluded from rebutting the presumption relied upon by his adversary throughout these proceedings.

Without the precise definition of the "\$'s" he was alleged to have "had and received" in sufficient number to be "required by law to make an income tax return," Petitioner was unable to prepare any defense.

Although he had stipulated that certain documents were the business records they were purported to be, Petitioner objected at trial to the admission of all documentary "evidence" on the grounds that none of it showed with any degree of certainty whatsoever that he had "had and received" any "\$'s" at all and was therefore irrelevant and inadmissible. All of his objections were overruled.

The government introduced four witnesses, one of whom was an IRS Revenue Agent, their "expert witness." The testimony of two of these witnesses showed that Petitioner had earned and was entitled to a given number of "\$'s" during each of the years in question. None of the witnesses, however, could testify of his own personal knowledge that Petitioner had ever "had and received" any of those "\$'s" he had earned and to which he was entitled. Furthermore, the government introduced NO affidavit, deposition, or investigative report of any other witness having personal knowledge of, or of having personally witnessed, the receipt by Petitioner of the given number of "\$'s" alleged in the Indictment (or of any other number of "\$'s").

At the close of the government's case-in-chief Petitioner moved for a judgment of acquittal on the grounds that the testimonial and documentary "evidence" presented by the government was insufficient to support the charges as alleged in the Indictment but, after some discussion, this motion was denied.

Without any defense and with no evidence to present, Petitioner then closed his case and again moved for a judgment of acquittal on the

grounds that the government failed to carry its burden of proof with respect to the charges as alleged in the Indictment. This motion, too, was denied.

On April 28, 1977, the case was submitted to the Jury. At no time before, during, or after the trial did the government provide the lawful definition of the "\$" to the Petitioner, the Judge, or the Jury. The Jury, therefore, had no certain knowledge of "what" it was that Petitioner was alleged to have "had and received" in sufficient number to be "required by law to make an income tax return" and the admitted "evidence" alone did not provide the full truth for their consideration. The Jury's verdict was "Guilty" as to each count.

Post-trial Renewal of Motion for Judgment of Acquittal and Motion for New Trial were each timely filed. Memoranda in support of post-trial motions were timely filed and oral argument on the motions was held on October 21, 1977, after which the motions were taken under advisement.

The issue raised in Renewal of Motion for Judgment of Acquittal was:

"The evidence was insufficient to sustain a conviction."

The issues raised in Motion for New Trial were:

1. "The Court erred in denying Defendant's Motion for Bill of Particulars."
2. "The Court erred in denying Defendant's Motion to Suppress Evidence."
3. "The Court erred in admitting into evidence the government's exhibits all of which were inadmissible."
4. "The Court erred in denying/overruling Defendant's repeated objections as to the admissibility of the government's exhibits."
5. "The verdict is contrary to the weight of the evidence and is not supported by the evidence."
6. "The verdict is contrary to law."

On June 2, 1978, following an evidentiary hearing on the issue of suppression of evidence

(one of seven issues raised in post-trial motions), the trial Court issued its Findings of Fact, Conclusions of Law (addressed only to the suppression of evidence issue) and Order (Appendix A2, *infra*) denying Petitioner's post-trial motions. Petitioner then petitioned the trial Court for reconsideration of post-trial motions asking for Findings of Fact and Conclusions of Law re each of the other issues. His petition was denied (Appendix A3, *infra*).

Sentencing took place on June 26, 1978. Although Petitioner had been free on his own recognizance and had in good faith timely appeared and attended every scheduled hearing before the trial Court during the preceding eighteen months and although the trial Judge had no reason to believe that he would flee or pose a danger to any other person or to the community Petitioner was nevertheless immediately incarcerated for a period of thirty-one days (during which time he was unable to proceed with perfecting his appeal because of lack of necessary federal legal reference materials at Berks County Prison, Reading, PA) before being released on July 26, 1978, on his Motion for Stay of Execution of Sentence (of imprisonment) Pending Appeal.

Petitioner's Notice of Appeal was timely filed and the fine imposed per the Judgment (Appendix A4, *infra*) was timely paid.

Petitioner's Brief for Appellant was timely filed in USCA3. The issues raised in this Brief were:

1. May certain particulars which were timely requested and which were essential to properly prepare a fair defense against the charges stated in the Indictment be denied the Defendant?
2. May evidence, over Defendant's objections, be admitted which, in the absence of certain requested essential particulars, was adversely prejudicial to the defense?
3. May the trial Court deny Defendant's Motion for Judgment of Acquittal where, in the absence of certain requested essential particu-

lars, the evidence was insufficient to sustain a conviction?

4. May the trial Court deny Defendant's Motion for New Trial where the previous denial of his request for certain essential particulars established reasonable probability that a miscarriage of justice had taken place?

The gist of Petitioner's contentions re these issues can be stated briefly as follows:

1. Petitioner cannot be expected to properly prepare a fair defense against the charges when he is denied the precise lawful definition of the material object he is alleged to have "had and received" in sufficient number to be "required by law" to perform a certain act.

2. Absent the precise lawful definition of the material object Petitioner was alleged to have "had and received" in sufficient number to be "required by law" to perform a certain act and without any showing by the government that such lawfully-defined material objects actually exist, the admitted "evidence" alone was adversely prejudicial to the defense by making it appear to the Jury, without any basis in fact, that Petitioner should have done what the law required.

3. Without the precise lawful definition of the material object which the Indictment alleged Petitioner had "had and received" in sufficient number to be "required by law" to make an income tax return and without any proof that such material objects actually exist, the "evidence" alone was insufficient to sustain a conviction because the government failed to prove at all that Petitioner had "had and received" so much as one of those material objects and thereby failed to prove beyond reasonable doubt the first essential element of the offense charged, i.e., that he was a person required by law to make an income tax return and as a consequence of the government's failure to carry its burden of proof the trial Court should have granted Petitioner's motion for judgment of acquittal.

4. The denial by the trial Court of Pe-

itioner's request for certain essential particulars precluded him from properly preparing a fair defense and without those certain essential particulars being made known the admitted "evidence" alone did not provide the full truth for the Jury's consideration thereby depriving Petitioner of the fair trial required by due process of law and establishing the reasonable probability that a miscarriage of justice had taken place which the trial Court should have corrected by granting Petitioner's motion for new trial.

The government filed their Brief for Appellee in which they answered Petitioner's issues and contentions. The government's contentions can be briefly stated thusly:

1. The dollar sign and term "\$" refer to the basic monetary unit of the United States and is the established and generally understood measure of value; that the meaning of the term "\$" is clear and unambiguous; and that defendant's apparent position that the plaintiff must, in every case in which money, income, or value of property is involved, provide some sort of detailed definition of the term "\$" to every defendant's satisfaction would turn all tax litigation and most other litigation into absurd exercises in semantics.

a. Defendant had all the information he needed to prepare to defend; that he did not show what aid his requested definition could have provided him at trial or any way in which its denial would be prejudicial to him; and that, therefore, his motion for bill of particulars was properly denied.

b. Evidence admitted over defendant's objections was properly admitted because it showed that he had earned and was entitled to a certain number of "\$'s" and therefore logically tended to point to a conclusion that he had received sufficient "\$'s" to be required by law to file an income tax return; that much of the disputed evidence was also relevant to the element of willfulness, tending to show that he knew of his

duty to file income tax returns; and that, even without the definition of the "\$" being made known, the jury could clearly understand what defendant had received, and determine that receipt of "\$'s" constituted income.

c. Even though the government did not define the "\$," they proved that defendant had received sufficient "\$'s" to require him to make an income tax return; that it is clear, without any need of proof, that a "\$" is the basic monetary unit of the United States; that there was no more need to supply a definition for "\$" to complete the proof in this case than there was need to define any other word used in the course of the evidence; and that, therefore, the evidence was sufficient.

d. Defendant's contention that denial of his pre-trial motion for bill of particulars created a "miscarriage of justice" at the trial concerns the exact same denial of his motion for a bill of particulars which is the subject of his first issue and is without merit for the reasons discussed in a. above.

Petitioner then filed his Reply Brief for Appellant in which he replied to the government's contentions set forth in their answering brief. Concisely stated, Petitioner's reply was as follows:

1. Petitioner agrees that the dollar sign and the term "\$" refer to the basic monetary unit and posed the question, "However, IF the 'dollar' is the 'established' measure of value as the government contends, WHO 'established' it and WHAT is it?" It would seem logical that Congress establishes what the "\$" is, defines it, and publishes that definition in an appropriate law duly enacted. Petitioner then posed the question, "Is it 'frivolous and entirely without merit' to contend that the government ought to be required to produce the lawful definition of the material object upon which their entire case is based?" Petitioner then explained that the government's statement, "The meaning of the term "\$" is clear

and unambiguous," could only have been true and valid from the year 1792 through 1964, a period of one hundred and seventy-two years during which the term "\$" was clearly and unambiguously defined in the laws of the United States, made into the material object defined, and circulated in large quantities throughout the United States for use; that Congress, in 1965 by Public Law, discontinued the making of such clearly and unambiguously defined "\$'s;" and that soon after 1965 those material objects, the "\$'s" which actually existed, were withdrawn from circulation so that during those years involved in this case, 1970, 1971, 1972, and 1973, NO such "\$'s" were in circulation. Since there were NO lawfully-defined "\$'s" in circulation during the years in question, WHAT were those "\$'s" Petitioner was alleged in the Indictment to have "had and received?" Petitioner then again posed the question he had originally asked in his Motion for Bill of Particulars, "What is the precise definition of the '\$' as used by the government in the Indictment?" Petitioner also pointed out that he had asked for that definition not for "defendant's satisfaction" but in the interest of fairness and justice so that the whole truth of this matter could be ascertained and to allow him to prepare a proper defense based on truth.

a. In the instant case, where the government relied almost exclusively upon the term "\$" at trial, the judge may not properly deny a motion for bill of particulars where the facts requested were relied upon by the government at trial; and that denial of Petitioner's request for a definition of the "Thing" he is alleged to have "had and received" in sufficient quantity to bring him within the operation of a specific law is obviously adversely prejudicial to the defense.

b. The government's statement that the admitted evidence was relevant could only be true and valid IF the government had conclusively shown what the "\$" is defined as and that such "\$'s" actually existed and were in circulation in

great enough quantity during the prosecution years so that there was a very high probability Petitioner could have "had and received" at least a sufficient number of those "\$'s" to be required by law to file a return; and that the government's contention that much of the disputed evidence was relevant to the element of willfulness because it showed that Petitioner knew of his duty to file income tax returns was without substance because of their reference to a single exhibit which concerned Petitioner's discussion with his employer's legal counsel on the subject of withholding tax from an employee's wages.

c. When it is well-known that, in all criminal cases where it is alleged that the defendant "had and received" some Thing (some material object or substance, the Corpus Delicti) upon which the crime is based, that Thing, the material object or substance, must be defined and/or identified beyond reasonable doubt, it is wholly incongruous for the government to contend that in criminal cases involving "\$'s" they need not provide the lawful definition of what a "\$" is - and is especially incongruous in the instant case where it is reasonably possible that one or more of three lawful definitions of the "\$" could apply; and that because the lawful definition of the term "\$" as used by the government in the Indictment was withheld the admitted evidence alone was insufficient to sustain a conviction.

Although Petitioner had timely requested oral argument, USCA3 took the appeal under consideration on the briefs only, without oral argument, on January 9, 1979.

On January 23, 1979, USCA3 issued their Judgment Order without opinion (Appendix A1, *infra*) affirming the USDC ED PA Judgment (Appendix A4, *infra*).

Petitioner timely filed in USCA3 his Petition for Rehearing in which he pointed out that the Court had overlooked or misapprehended a most important and fundamental point of law, to wit, a conviction for crime cannot be had unless the

"corpus delicti," that is, the fact that the crime charged has been actually perpetrated, is first established, and the very important fact that the government failed to establish the "corpus delicti" in the instant case because of their exclusive reliance upon a presumption which was erroneously allowed to stand.

Petition for Rehearing was denied on March 7, 1979, (Appendix B1, *infra*), but Petitioner did not receive his copy of this Order until March 15, 1979, the very same day the USCA3 Judgment Order in lieu of formal mandate was sent to the trial Court.

Petitioner's Motion for Stay of Mandate and to Remain Free on Own Recognizance was filed in USCA3 on March 19, 1979, and was granted on March 27, 1979 (Appendix B2, *infra*).

Petitioner then made application to Mr. Justice Brennan of this Court for extension of time in which to file his Petition for Writ of Certiorari which Mr. Justice Brennan granted on April 4, 1979 (Appendix B3, *infra*), and this Petition was then timely filed.

REASONS FOR GRANTING THE WRIT

Preface

The Bill of Rights of our federal Constitution provides specific due process safeguards to protect defendants charged with crime in United States courts. Among the accused's Bill of Rights' guarantees are:

1. The right not to be compelled to be a witness against himself;
2. The right not to be deprived of life, liberty, or property without due process of law;
3. The right to trial by an impartial jury;
4. The right to be informed of the nature and cause of the accusation;
5. The right to compulsory process for obtaining witnesses in his favor; and

6. The right to justice fairly and honestly administered by all executive and judicial officers pursuant to their Oath of Office whereby they have sworn to support the U. S. Constitution.

The foregoing rights are among those set forth in our Bill of Rights and which a defendant charged with crime must be accorded if justice is to be fairly and honestly administered.

Our Constitution was established to perpetuate liberty and justice by marking clear, explicit, and lasting constitutional boundaries for trials and we need look no further than the language of that revered document itself to be assured that defendants charged with crime are to be accorded due process of law - i.e., they are to be tried as the Constitution and the laws made in pursuance thereof prescribe and not under some arbitrary procedure that a particular judge, or judges sitting as a panel, may see fit to prescribe on the spur of the moment or because of fear that the fair, honest, and just course of action would, as the trial Judge in this case expressed in open court during the hearing on post-trial motions, "create chaos."

The fundamental constitutional principle is that the accused is presumed innocent until he is proved guilty and that the government, BEFORE a conviction can be secured, MUST demonstrate beyond reasonable doubt each essential element of the alleged offense. This basic principle is clearly reflected in several provisions of our Bill of Rights. The Fifth and Sixth Amendments provide that as a part of due process of law the accused shall not be compelled to be a witness against himself; that he shall have a trial by an impartial jury; that he shall be informed of the nature and cause of the accusation; and shall have compulsory process for obtaining witnesses in his favor. The purpose of these requirements is obviously to compel the government to state and define specifically what it must prove in order to convict the accused so that he can intelligently prepare to defend himself. And to aid

the accused in making his defense to the charges thus defined, our Bill of Rights provides the accused explicit guarantees - all designed to assure that the jury will, as nearly as humanly possible, be able to consider fully ALL the evidence and determine the TRUTH of every case.

In the instant case, the government failed to meet its burden of proof at trial on the first essential element of the offense charged. The government failed to introduce any evidence to prove (1) that there actually exists a lawful definition of "\$;" (2) that such a lawfully-defined "\$" was made into a material object capable of being "had and received;" (3) that such a material object actually existed and was in circulation throughout the United States in large enough quantity so that a very high probability existed that Petitioner could have "had and received" at least a sufficient number of them to bring him within the operation of the law; or (4) that he had actually "had and received" a sufficient number of such material objects to be "required by law" to make an income tax return. It follows logically, therefore, that failure by the government to introduce sufficient evidence to prove the first essential element of the offense charged makes the second and third essential elements IMPOSSIBLE to prove. The case was submitted to the jury without any evidence having been introduced by the government that such a lawfully-defined material object (the "\$") capable of being "had and received" actually exists. The jury, therefore, did not have before it ALL the evidence required to fully consider and thereby determine the TRUTH in this case. How can a jury be "impartial" when it is deprived of certain essential information vital to its determination of TRUTH? The jury, of course, brought in a verdict of "Guilty."

A reviewing court should not permit a conviction to stand which is as wholly lacking in evidentiary support as is the instant case. BOZZA v. U.S. (1947) 330 US 160. See also THOMPSON v.

LOUISVILLE (1960) 362 US 199.

When evidence of a crime is insufficient as a matter of law, as the evidence in this case plainly is, a reversal of conviction is in accord with the historic principle that "independent trial judges and independent appellate judges have a most important place under our constitutional plan since they have the power to set aside convictions." U.S. ex rel. TOTH v. QUARLES (1955) 350 US 11, 19.

To the extent that the courts below acquiesce in and condone the government's reliance upon a presumption to bring about a conviction is each of the guarantees set forth in our Bill of Rights nullified. Of what use are Bill of Rights' guarantees to the accused if the government, in order to secure a conviction, is not required to introduce any evidence to support essential allegations of the indictment it has brought? It would be senseless and stupid to believe that our Constitution would set forth all those precautions (guarantees) to protect the accused from governmental abuses if the government could by some legerdemain with a presumption make nullities of such precautions. Such a result would completely frustrate the purpose of our Founders to establish a system of justice in which the accused - even the poorest and most humble - would be able to protect himself from wrongful charges by a big and powerful government. There can be no doubt, therefore, that constitutional due process of law requires the government to prove beyond reasonable doubt each element of the offense charged in its indictment. There can be no doubt, either, that constitutional due process of law must apply equally to ALL criminal prosecutions - and that defendants in criminal cases involving "\$'s" are as equally entitled to due process of law as defendants in any other criminal case.

In the instant case, denial of Petitioner's right to due process of law by the trial court and the sanction thereof by the appellate court evidences such a departure from the accepted and

usual course of judicial proceedings based on constitutional principles as to call for an exercise of this Court's power of supervision.

1. It is a denial of procedural due process of law for a defendant in a criminal case to be denied timely-requested particulars essential to preparing a proper defense and without which he was found "guilty" having been unable to present any defense at all.

Petitioner was (and still is) ignorant of the precise lawful definition for the symbol "\$" upon which the government relied in alleging in the indictment that he had "had and received a gross income" of a sufficient number of "\$'s" during the specified years to be "required by law to make an income tax return" for those years.

Petitioner, in his timely-filed Motion for Bill of Particulars, asked for such precise definition and where it could be found in the United States Code so that he could properly prepare his defense against such charges.

The government opposed giving him such definition and the trial court denied his Motion.

Such definition was not contained in the indictment and the government did not otherwise provide such definition. Petitioner was therefore deprived of the sure and certain knowledge of precisely WHAT the government was charging him with having "had and received" in sufficient quantity so as to render him a person "required by law" to make income tax returns.

Petitioner, by being thus deprived of such sure and certain knowledge so that he would know what the government intended to prove, was totally unable to prepare any meaningful defense as is evidenced in the trial transcripts.

The jury's verdict of "Guilty" was arrived at without the jury itself having been apprised of just exactly WHAT those "\$'s" were Petitioner had been charged with having "had and received" - the government having introduced NO evidence to sub-

stantiate the actual existence of any sort of \$'s.

Petitioner, at this point, requests this Court to take Judicial Notice of Statute I, Chapter XVI, Section 9 (Appendix C8, *infra*) which sets forth the original definition of the "\$." That definition, with minor variations, remained valid for one hundred and seventy-two years during which period the defined "\$" was made into a material object capable of being "had and received" and issued into circulation in large quantities through out the United States for use as lawful money. Petitioner further requests this Court to take Judicial Notice of Public Law 89-81, Section 101(c) (Appendix C9, *infra*) which discontinued the making of the lawfully-defined "\$" for a period of time. Whether such "\$'s" were ever made again Petitioner does not know - but he can state positively that since 1965 he has not "had and received" any of them if they were made.

It is, therefore, a denial of Petitioner's Fifth Amendment right to due process of law and his Sixth Amendment right to be informed of the nature and cause of the accusation to be denied timely-requested particulars essential to preparing a proper defense and this Court ought to issue a Writ of Certiorari to review the judgment of the appellate court because of their affirmation of such denial.

2. It is a denial of procedural due process of law for a defendant in a criminal case to be caused to suffer trial and conviction based entirely on "evidence" founded upon a presumption which defendant was precluded from rebutting by denial of timely-requested particulars.

In the instant case, the outstanding presumption relied upon by the government and upheld by the trial court was that such Things as "\$'s" actually existed during the years at issue.

Petitioner's request, in his Motion for Bill of Particulars, for the lawful definition of the "\$" was to clear up such presumption by making

known to all concerned the truth of WHAT Congress intended the "\$" to be. His request for such definition was denied. Furthermore, the government produced no evidence whatsoever to establish this one most basic fact necessary to prove commission of the crime charged and the outcome of this case in the trial court was predicated upon the presumption that such Things as "\$'s" actually existed during the years at issue.

And furthermore, because the reasonable possibility exists that one or more of three lawful definitions could apply in the instant case, Petitioner, not knowing which definition/s the government was relying upon, was precluded from rebutting the presumption.

It is, therefore, a denial of Petitioner's Fifth Amendment right to due process of law to be caused to suffer trial and conviction based entirely on "evidence" founded upon a presumption and this Court ought to issue a Writ of Certiorari to review the judgment of the appellate court because of their affirmation of such denial.

3. It is a denial of procedural due process of law for a defendant to be caused to suffer conviction in a criminal case in which the government was not held to its burden of proof, i.e., its burden of proving beyond reasonable doubt each essential element of the offense charged in the indictment and each essential sub-element as would necessarily be included within each essential element.

At trial the government introduced documentary "evidence" which showed Petitioner had earned and was entitled to a given number of "\$'s" during each of the years in question.

None of the four government witnesses introduced at trial was able to testify of his own personal knowledge the Petitioner had actually received any of those "\$'s" he had earned and to which he was entitled.

The government introduced NO affidavit, de-

position, or investigative report of any other witness having personal knowledge of, or of having personally witnessed, the receipt by Petitioner of the given number of "\$'s" alleged in the indictment - or of any other number of "\$'s."

The three essential elements of the offense charged, each of which the government had the burden of proving beyond reasonable doubt, were explained to the jury by the trial judge. The first of the three essential elements being, "that the defendant was a person required by law to make a return of his income for the year in question."

Included within that first essential element are four essential sub-elements as follows:

First, that there actually exists an official definition of the symbol "\$" and the word it represents - as defined in the laws of the United States by the U. S. Congress pursuant to its authority granted by Article I, Section 8, of the U. S. Constitution; and

Second, that such a lawfully-defined "\$" actually exists as a material object capable of being "had and received;" and

Third, that such a lawfully-defined "\$" is actually in circulation in the United States in sufficient quantity so as to be readily available for use as money; and

Fourth, that Petitioner actually "had and received" a sufficient number of such lawfully-defined "\$'s" during the years in question so as to be "required by law" to make an income tax return.

In order for the government to prove beyond reasonable doubt the first essential element of the offense charged it must also prove beyond reasonable doubt each of the four included sub-elements. How did they do?

Taking each of these four sub-elements in order:

First, the government submitted NO evidence that a lawful Congressional definition for the symbol "\$" actually exists - the government

cited NO law of the United States which defines the "\$;" and

Second, the government submitted NO evidence that any such Thing as a lawfully-defined "\$" actually exists; and

Third, the government submitted NO evidence that any such Thing as a lawfully-defined "\$" is actually in circulation in the United States in sufficient quantity so as to be readily available for use as money; and

Fourth, the government submitted NO evidence that Petitioner had actually "had and received" a sufficient number of such lawfully-defined "\$'s" in each of the years in question to be "required by law" to make an income tax return.

Thus, the government's failure to submit ANY evidence which could prove beyond reasonable doubt each and every one of the four included sub-elements of the first essential element of the offense charged in the indictment negates any inference that Petitioner was "required by law" to make an income tax return.

It is, therefore, a denial of Petitioner's Fifth Amendment right to due process of law and of his Ninth Amendment right to justice fairly and honestly administered by all executive and judicial officers concerned by being caused to suffer conviction in a criminal case in which the government was not held to its burden of proof and this Court ought to issue a Writ of Certiorari to review the judgment of the appellate court because of their affirmation of such denial.

4. It is a denial of procedural due process of law for a defendant to be caused to suffer conviction in a criminal case in which the government failed to establish the "corpus delicti."

It is too well-known to require any elaboration that "corpus delicti" consists of all the basic facts necessary to prove the commission of the crime charged; and the fact that a crime has been committed, or "corpus delicti," cannot be

established by a presumption.

In the instant case Petitioner was charged with having "had and received" a sufficient number of "\$'s" during each of four years so as to be "required by law" to make an income tax return and that he willfully and knowingly failed to make said return. The "corpus delicti," therefore, would consist of two sections, first, the "corpus," that he had actually "had and received" a sufficient number of "\$'s" during each year to trigger the requirement that he make an income tax return and that no returns were made, and second, the "delicti (or delict)," that with knowledge he was required to make an income tax return he willfully and knowingly (with criminal intent) failed to do so.

The government, in failing to introduce any evidence that lawfully-defined "\$'s" actually exist but relying upon the presumption that they did, failed to prove the "corpus" of the crime charged - and, of course, by failing to prove the "corpus," the "corpus delicti" was not proved.

It is, therefore, a denial of Petitioner's Fifth Amendment right to due process of law to be caused to suffer conviction in a criminal case in which the government failed to establish the "corpus delicti" and this Court ought to issue a Writ of Certiorari to review the judgment of the appellate court because of their affirmation of such a denial.

CONCLUSION

Probably the most outstanding fact which connects all the proceedings in this case is that the government failed to carry its burden of proof and the lower courts did not hold them to it. This Court succinctly set forth the principle of "burden of proof" in DAVIS v. U.S., 160 US 469, where it said:

"Strictly speaking, the 'burden of proof,' as these words are under-

stood in the criminal law, is never upon the accused to establish his innocence or to disprove the facts necessary to establish the crime for which he is indicted. It is on the prosecution from beginning to end, and applies to every element necessary to constitute the crime."

Upon its objective consideration of the facts set forth in the Statement of the Case and under Reasons for Granting the Writ and of the information contained in the Appendices, infra, Petitioner prays that this Court will recognize that the denial by the trial court of Petitioner's right to due process of law and the affirmation by the appellate court of that denial is such a departure from the accepted and usual course of judicial proceedings based on constitutional principles as to call for an exercise of this Court's power of supervision and that a Writ of Certiorari issue to review the judgment of the U. S. Court of Appeals for the Third Circuit.

Respectfully submitted,

GEORGE A. BOMHER
P. O. Box 186
Glenside, PA 19038
Tele; 215-887-2576
Petitioner Pro Se

May, 1979.

BOMHER v. U.S.; Petition for Writ of Certiorari

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 78-1924

UNITED STATES OF AMERICA, Appellee

v.

BOMHER, GEORGE A., Appellant

Appeal from the United States District Court
for the Eastern District of Pennsylvania
D.C. Crim. No. 77-00065

Submitted under Third Circuit Rule 12(6)
on January 9, 1979

Before HUNTER, GARTH, Circuit Judges, and LAYTON*
District Judge

*Honorable Caleb R. Layton, 3rd, United States
District Judge for the District of Delaware,
sitting by designation.

JUDGMENT ORDER

After consideration of all contentions raised
by appellant, to wit, that the Court erred:

1. In ruling that certain parti-
culars which were timely requested and
which were essential to properly pre-
pare a fair defense against the charges
stated in the Indictment could be denied
appellant;

2. In admitting evidence, over ap-
pellant's objections, which, in the ab-
sence of certain requested essential
particulars, was adversely prejudicial
to appellant's defense;

3. In denying appellant's motion

for judgment of acquittal where, in
the absence of certain requested es-
sential particulars, the evidence was
insufficient to sustain a conviction;

4. In denying appellant's motion
for a new trial where the previous de-
nial of his request for certain essen-
tial particulars established reason-
able probability that a miscarriage of
justice had taken place;

It is ADJUDGED and ORDERED that the judgment
of the district court be and is hereby affirmed.

By the Court,

/s/

James Hunter, III,
Circuit Judge

Attest:

/s/

Dated:
January 23, 1979.

Thomas F. Quinn, Clerk

APPENDIX A2

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Criminal Action No. 77-65

UNITED STATES OF AMERICA

v.

GEORGE A. BOMHER

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER

HUYETT, J.

June 2, 1978

Defendant was convicted of four counts of
willful failure to file tax returns in violation

of 26 USC Sec. 7203. Prior to trial defendant had filed a motion to suppress bank records which the Internal Revenue Service had obtained from the Bank of America, 3rd and K Branch, Chula Vista, California through the use of a summons issued pursuant to 26 USC Sec. 7602. Defendant's motion to suppress was denied by the Court without holding an evidentiary hearing and the bank records were admitted into evidence at trial. In his motion for a new trial, defendant renewed his objection to the use of a civil summons to obtain his bank records for what defendant alleged to have been either primarily or solely a criminal investigation. In light of the Court of Appeals for the Third Circuit's recent opinion in United States v. Lester Genser and Lawrence Forman, Nos. 76-2623 and 76-2624 (3rd Cir., filed February 23, 1978), we reconsidered our earlier ruling and held an evidentiary hearing on defendant's motion to suppress on May 18, 1978. Having carefully considered the testimony and exhibits introduced at that hearing and the memoranda of law submitted by defendant and the Government, we now make the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. Tedd A. Boomershine has been a Special Agent with the Intelligence Division of the Internal Revenue Service from August, 1973 until the present. Boomershine was transferred to San Diego, California in June 1974.

2. In August, 1974, Boomershine was assigned to investigate the case of George A. Bomher. At that time, there had been no recommendation within the Internal Revenue Service (IRS) for criminal prosecution of defendant.

3. Boomershine's primary purpose in undertaking the investigation was to determine whether there had been any criminal violation of the Internal Revenue Code. A determination of possible criminal violations was not the sole purpose underlying Boomershine's investigation. Boomershine also undertook the investigation with the

aim of ascertaining and establishing defendant's civil tax liability.

4. On October 10, 1974, Boomershine wrote to defendant to inform him that the Intelligence Division of the Internal Revenue Service had initiated a criminal investigation into defendant's tax affairs for the years 1970-73. Exhibit A-1 to Defendant's Memorandum of Points and Authorities in Support of Defendant's Motion for a New Trial.

5. On October 25, 1974, an administrative summons was issued pursuant to 26 USC Sec. 7602 to the Bank of America, 3rd and K Branch, Chula Vista, California requiring the bank to produce bank records of the defendant before Boomershine on November 8, 1974. Exhibit 1 from the Suppression Hearing. The bank produced the records requested and at least some of these records were produced at defendant's trial. Trial Exhibits VII-1 through VII-10. At the time the summons issued and the records were produced, Boomershine had not formed a firm purpose to recommend defendant for criminal prosecution.

6. Administrative summons issued pursuant to 26 USC Sec. 7602 and requiring the production of defendant's records before Boomershine were also issued to the San Diego Navy Federal Credit Union on October 30, 1974, and to the Pacific Telephone Company in San Diego, California on November 26, 1974. Exhibits 2 and 3 from the Suppression Hearing. At the time these summons issued and the records were produced, Boomershine had not formed a firm purpose to recommend defendant for criminal prosecution.

7. In December, 1974, Internal Revenue Agent Walter Lee Ayling joined Boomershine in the investigation of defendant's tax affairs. Ayling continued to assist Boomershine in that investigation until a recommendation for prosecution was made. Ayling Affidavit.

8. Boomershine did not form a firm purpose to recommend Bomher for criminal prosecution until late in January, 1975. In the middle of Feb-

ruary, 1975, Boomershine made his formal report to his superiors recommending that Bomher be criminally prosecuted.

9. The only documents obtained through the use of administrative summons issued October 25, 1974 to the Bank of America and utilized at trial were Exhibits VII-1 through VII-10. The bank records did not lead to the discovery of any other documents or evidence used at trial. All the government's trial exhibits, other than Trial Exhibits VII-1 through VII-10, were discovered independently from the bank records.

CONCLUSIONS OF LAW

1. Defendant has standing to raise a violation of 26 USC Sec. 7602 and, if such violation is established, suppression of the improperly obtained evidence and its fruits is the appropriate remedy. United States v. Genser and Forman, supra.

2. An administrative summons is issued illegally under 26 USC Sec. 7602 where:

a. The only purpose of the Agent's investigation is to gather material for a criminal investigation. Donaldson v. United States, 400 US 517, 536 (1971); or

b. The Intelligence Division of the Internal Revenue Service has already recommended criminal prosecution. Id.; United States v. Friedman, 532 F2d 928, 932 (3rd Cir. 1976); or

c. Even though there is a civil side to the investigation, "the investigating agent has . . . already formed a firm purpose to recommend prosecution." Id. (FN 1)

(FN 1: In Friedman, the court noted two further purposes which would be impermissible under 26 USC Sec. 7602: 1. to harass the taxpayer, and 2. to obtain material which has previously been inspected by the Government. United States v. Friedman, supra at 932. There is no suggestion that either of these theories apply to the conduct of the agents in this case.)

3. "(A) mere showing that a Special Agent of the Service's Intelligence Division was the only

person assigned to investigate the (taxpayer's) liability" is not sufficient to make out a violation of 26 USC Sec. 7602. United States v. Fisher, 500 F2d 683, 688 (3rd Cir. 1974), aff'd 425 US 391 (1976); see United States v. McCarthy, 514 F2d 368, 374 n. 8 (3rd Cir. 1975).

4. There was no violation of 26 USC Sec. 7602 in the administrative summons issued on October 25, 1974 to the Bank of America, 3rd and K Branch, Chula Vista, California. Therefore, the evidence obtained by that summons and introduced at trial need not be suppressed. Therefore, the Court was correct in denying defendant's pretrial motion to suppress.

5. Even if the October 25, 1974 summons was issued illegally, the remainder of the Government's exhibits and evidence at trial were discovered independently from the bank records and therefore need not be suppressed. United States v. Genser and Forman, supra at 31.

6. Even if the bank records should have been suppressed, the admission of Exhibits VII-1 through VII-10 constituted harmless error under Fed. R.Crim. P. 52(a). United States v. Vallejo, 482 F2d 616, 618 (3rd Cir. 1973), cert. denied, 416 US 940 (1974). Since the alleged illegality on the part of the Special Agent involves no constitutional provision, the proper standard to apply is whether we can conclude "with fair assurance, after pondering all that happened without stripping the erroneous action from the whole, that the judgment was not substantially swayed by the error" Kotteakos v. United States, 328 US 750, 764-65 (1946). The remaining documents and testimony, other than the bank records, constituted overwhelming evidence of the defendant's guilt and, therefore, any error with respect to the bank records did not influence the jury's verdict.

7. We have reviewed the remainder of defendant's contentions including:

a. The evidence was insufficient to sustain a conviction.

b. Denial of defendant's motion for a bill of particulars.

c. The admission into evidence of the Government's exhibits over the defendant's objections.

d. The verdict was contrary to the weight of the evidence and not supported by the evidence.

e. The verdict is contrary to law.

We find that these contentions have no merit. Therefore, defendant's motion for a judgment of acquittal and motion for a new trial will be denied.

/s/

J.

ORDER

Now, June 2, 1978, upon consideration of defendant's motion for judgment of acquittal and motion for a new trial, memoranda submitted, and oral argument, IT IS ORDERED that the motions shall be DENIED for the reasons stated in the accompanying Findings of Fact and Conclusions of Law; defendant shall report for sentencing on June 26, 1978 at 9:30 A.M., Courtroom 12-A.

/s/

Daniel H. Huyett, III

APPENDIX A3

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Criminal Action No. 77-65

UNITED STATES OF AMERICA

v.

GEORGE A. BOMHER

ORDER

Now, June 23, 1978, upon consideration of defendant's motion for reconsideration of the Court's Order of June 2, 1978, IT IS ORDERED that the motion is DENIED. Prior to ruling on the contentions advanced in support of defendant's post-trial motions, the defendant's arguments were considered carefully and fully. As we noted on page 6 of the Order dated June 2, 1978, "(W)e have reviewed the remainder of defendant's contentions . . . (and) (w)e find that these contentions have no merit."

/s/

J.

APPENDIX A4

UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF PENNSYLVANIA

Docket No. 77-65

JUDGMENT AND PROBATION/COMMITMENT ORDER

Counsel: Pro Se

Date: June 26, 1978

Plea: Not Guilty

Finding and Judgment: Guilty. Defendant has been convicted of the offense of willfully and knowingly failed to file income tax returns in violation of Title 26 USC Sec. 7203.

Sentence: The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of six (6) months and fined the sum of one thousand (\$1,000.00) dollars,

to be paid within ten (10) days of this date, on Count I.

On Count II and III the same sentence is imposed on each Count as on Count I to run concurrent with the sentence on Count I, except no additional fines.

On Count IV imposition of sentence is hereby suspended and the defendant is placed on probation for a period of five (5) years, to commence upon the date of release from period of imprisonment, subject to following conditions of probation.

Defendant to obtain employment so he can discharge his federal income tax liabilities to the U. S. Government.

Defendant is to enter into a suitable agreement with the U. S. Treasury Department on a schedule of payments of federal income taxes, penalties and interest owing.

Signed by U. S. District Judge

/s/ Daniel H. Huyett, III

Date 6/26/78

APPENDIX B1

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 78-1924

UNITED STATES OF AMERICA

v.

BOMHER, GEORGE A.

SUR PETITION FOR REHEARING

Present: Seitz, Chief Judge, Aldisert, Adams,
Gibbons, Rosenn, Hunter, Weis, Garth,
Higginbotham, Circuit Judges.

The petition for rehearing filed by GEORGE A. BOMHER, Appellant, in the above entitled case having been submitted to the judges who partici-

pated in the decision of this court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

Dated:

By the Court,

March 7, 1979.

/s/

James Hunter, III

Circuit Judge

APPENDIX B2

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 78-1924

UNITED STATES OF AMERICA

v.

BOMHER, GEORGE A.

Present: Hunter and Garth, Circuit Judges and
Layton, District Judge

1. Motion by appellant for Stay of Mandate Pending Application to the U. S. Supreme Court for Writ of Certiorari and to Remain Free on Own Recognizance, which the Court may wish to treat as a Motion to Recall the Mandate.

2. For your information the Judgment Order was entered in this appeal on January 23, 1979, and an order was filed on March 7, 1979, denying the Petition for Rehearing. The Certified Judgment Order in Lieu of Formal Mandate timely issued on March 15, 1979.

In the above-entitled case. Any answer which would be due by March 28, 1979, will be forwarded to you upon receipt of same.

Respectfully,
/s/ T. F. Quinn
Clerk

The foregoing Motion is granted. If a petition for writ of certiorari is timely filed in the Supreme Court, the reissuance of the mandate will be continued until final disposition by the Supreme Court.

Dated: By the Court,
March 27, 1979. /s/ James Hunter, III
Judge

APPENDIX B3

SUPREME COURT OF THE UNITED STATES

No. A-865

GEORGE A. BOMHER, Petitioner

v.

UNITED STATES, Respondent

ORDER EXTENDING TIME TO FILE
PETITION FOR WRIT OF CERTIORARI

Upon consideration of the application of petitioner, IT IS ORDERED that the time for filing a petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including May 6, 1979.

Dated /s/ William J. Brennan, Jr.
this 4th day Associate Justice of
of April, 1979. the Supreme Court of
the United States

APPENDIX C1; U. S. Const., Art. I, Sec. 8:

The Congress shall have Power * * * To coin Money, regulate the Value thereof, and of foreign

Coin, and fix the Standard of Weights and Measures; * * * .

APPENDIX C2; U. S. Const., Article VI:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; * * * , shall be the supreme Law of the Land; * * * and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; * * * .

APPENDIX C3; U. S. Const., Amendment Five:

No person * * * shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; * * * .

APPENDIX C4; U. S. Const., Amendment Six:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury * * * , and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; * * * .

APPENDIX C5; U. S. Const., Amendment Nine:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

APPENDIX C6; Title 26 USC Section 6012:

(a) General Rule. Returns with respect to income taxes under subtitle A shall be made by the following:

(1)(A) Every individual having for the taxable year a gross income of \$(see Note below

for sums applicable to years involved in this case) or more, * * * .

NOTE: In the years 1970 through 1972 defendant was married, in 1973 he was single. For calendar years 1970 and 1971, Section 6012(a) required every married individual under the age of 65 to make a return if he had a gross income of \$2,300 or more for his taxable year. For the calendar year 1972 the figure was \$2,800 or more. For the calendar year 1973, Section 6012(a) required every single individual under the age of 65 to make a return if he had gross income of \$2,050 or more for his taxable year.

APPENDIX C7; Title 26 USC Section 7203:

WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX. Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return * * * , keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 1 year, or both, together with the cost of prosecution.

APPENDIX C8; Statute I, Chapter XVI:

April 2, 1792. An Act establishing a Mint, and regulating the Coins of the United States. * * *

Sec. 9. And be it further enacted, That there shall be from time to time struck and coined at said mint, coins of gold, silver, and copper, of the following denominations, values, and descriptions, viz, EAGLES - each to be of the value of ten dollars or units, and to contain two

hundred and forty-seven grains and four eighths of a grain of pure, or two hundred and seventy grains of standard gold. HALF EAGLES - each to be of the value of five dollars, and to contain one hundred and twenty-three grains and six eighths of a grain of pure, or one hundred and thirty-five grains of standard gold. QUARTER EAGLES - each to be of the value of two dollars and a half dollar, and to contain sixty-one grains and seven eighths of grain of pure, or sixty-seven grains and four eighths of a grain of standard gold. DOLLARS or UNITS - each to be of the value of the Spanish milled dollar as the same is now current, and to contain three hundred and seventy-one grains and four sixteenth parts of a grain of pure, or four hundred and sixteen grains of standard silver. HALF DOLLARS - each to be of half the value of the dollar or unit, and to contain one hundred and eighty-five grains and ten sixteenth parts of a grain of pure, or two hundred and eight grains of standard silver. QUARTER DOLLARS - each to be of one fourth the value of the dollar or unit, and to contain ninety-two grains and thirteen sixteenth parts of a grain of pure, or one hundred and four grains of standard silver. DISMES - each to be of the value of one tenth of of a dollar or unit, and to contain thirty-seven grains and two sixteenth parts of a grain of pure, or forty-one grains and three fifth parts of a grain of standard silver. HALF DISMES - each to be of the value of one twentieth of a dollar, and to contain eighteen grains and nine sixteenth parts of a grain of pure, or twenty grains and four fifth parts of a grain of standard silver. CENTS - each to be of the value of one hundredth part of a dollar, and to contain eleven penny-weights of copper. HALF CENTS - each to be of the value of half a cent, and to contain five penny-weights and half a penny-weight of copper.

APPENDIX C9; Public Law 89-81

July 23, 1965. An Act to provide for the coinage

of the United States. Be it enacted by the Senate and House of Representatives of the United States in Congress assembled, That this Act may be cited as the "Coinage Act of 1965."

TITLE I - AUTHORIZATION OF ADDITIONAL COINAGE

Sec. 101. * * *

(c) No standard silver dollars may be minted during the five-year period which begins on the date of enactment of this Act. * * * .